



# City of Carmel

## **Carmel Board of Zoning Appeals Hearing Officer Monday, May 22, 2005**

The meeting was held at 5:30 PM in the Caucus Rooms of City Hall, Carmel, Indiana on Monday, May 22, 2006. The Hearing Officer was Kent Broach.

Department of Community Services Staff in attendance was Angie Conn.

### **D. Public Hearing:**

#### **1d. Brookfield, Sec 2, lot 36 - Estes Property**

The applicant seeks the following development standards variance approval:

**Docket No. 06040018 V      ZO Chapter 25.02.02    fence height**

The site is located at 12413 Springbrooke Run and is zoned S-1/Residence.

Filed by Robert & Maureen Estes Jr.

Present for the Petitioner: Bob and Maureen Estes. Mr. Estes stated that they would like to put up a 6-foot fence on their property. It would be higher than six feet from their property's perspective, but 6 feet from the neighbor's perspective. The neighbors installed a pool which changed the grade of the property by about 30 inches at the highest point. Because it slopes from zero to 32 inches, a 6-foot fence at the end of the property would be like a 3-foot fence. To give aesthetics to the neighbors and to have some privacy, they want to put up a 6-foot fence. The pool deck is about 10 to 15 feet from their formal living room. They had no problem with the pool, but wanted the fence for privacy. At the farthest point from the house it would be six-foot plus the 32 inches. They did not want to build a mound of dirt to put a fence on top. The Homeowners Association has approved the plans. The height was not an issue for the Architectural Review Board.

#### **Remonstrators:**

Bruce Ackerman, 12411 Springbrooke Run. He stated that the Estes have an 8 to 12-foot tree line for about 80 percent of the property line. There is an open gap from trees to the corner of the Ackerman house. They have a 4-foot fence on the top of their retaining wall. Their concern was how that gap would be filled. Their concern was the aesthetics of a giant long fence. There is already privacy except for the gap.

Paula Quammen, 12409 Springbrooke Run, couple doors down from the Estes. She had a list of concerns and photos of the existing area and fence from their perspective. She gave the list to Mr. Broach.

Mr. Broach had viewed the area.

The Public Hearing was closed.

Rebuttal:

Mr. Estes stated that from the Quammen's and Ackerman's property perspective, it is a 6-foot fence. From the Estes property it is a 9-foot fence. The front of the fence on the side of the house would be a 6-foot fence. The arborvitae bushes could die and they can see through them to the Ackerman property and pool. When they installed the landscaping in front, they had conferred with the neighbors and installed what the neighbors preferred. When this pool was installed, they were not notified. Based upon the records he saw from the City, it was the City who caught some issues. From the standpoint of anyone looking in, it is a 6-foot fence. It will be a high-quality wood fence by the Glidden Company. The arborvitae provides partial screening. Both of the remonstrators have a fence. It did not make sense to him that he could not have one.

Lisa Ackerman, 12411 Springbrooke Run. Their problem with the fence issue was the Estes' quality of life and privacy. There is a barrier of trees. The fence should be on the inside of the trees so that the Estes can see it. Mr. Estes had seen the staked yard and knew the pool was going in. The Ackerman's were not going to move the play area, so this was the only place for the pool. Mr. Estes never stated that there could be a privacy issue. They have a see-through fence because they have two children and a dog. She was not clear on the issue of the Estes quality of life. She was annoyed.

Mr. Broach stated that quality of life issues are a subjective matter.

Mr. Estes stated that he had seen the pool staked out, but he never envisioned a 32-inch stone wall being put up. He has a right to put up a 6-foot fence if the topography was the same as the Ackerman's. The stone wall happened a month or two after the pool was already in. His trees are three to four feet from the property line so that they can grow to the property line. It made no sense to put the fence on the other side. The trees were part of his enjoyment.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. The reason for the increased fence height is the difference in grading between the back yards. The Department recommended positive consideration. Conditions could be set. This is an effective way to accomplish screening for the Petitioner.

Mr. Broach had a few questions. He had observed the site from the street. Discussion followed on the arborvitae, fence location and topography along the property line. He was shown pictures of the cedar fence that would be installed by Glidden Fence Company.

Mr. Estes stated they had approval for the fence from the Homeowners Association. It would be placed between the arborvitae and the retaining wall.

Mr. & Mrs. Ackerman stated their retaining wall was two feet from the property line. They have a lot of easements and that was the best location for the pool. The only other area was the play area and they did not want to move it because he had severely injured his back installing the play area. Mrs. Ackerman stated that the grade had always been there.

The Estes felt if the pool had been sunk into the ground more, the topography would not have changed as much. They have no problem with the pool, but they want privacy. The arborvitae could die and not provide screening.

Mr. Broach stated there was precedent for this issue. People are entitled to a 6-foot fence. He felt the neighbors would benefit from the screening.

Mrs. Quammen stated that the Homeowners Association allowed only 4-foot fences.

The Estes did not agree with that because they already had their approval from the Homeowners Association based on approval by the City.

The 4-foot height for fences in the neighborhood is outside the BZA's discretion.

Mr. Broach felt the Ackerman's could put plantings in if they wanted to screen the fence from their side.

Mr. Estes stated the fence would be 6 inches to one foot from the property line, whatever the fence company recommended.

Mr. Ackerman stated it was 2 feet from his retaining wall to the property line and 4 feet from the property line to the trunk of the Estes' trees.

Mr. Estes was not sure about that, because Pulte built the area with 5-foot side yards.

Mr. Broach wondered if there were any design issues to try to limit the impact of the fence. If the plantings survive, they would be taller than the fence.

Mrs. Quammen had a list of concerns she gave to Mr. Broach. She was hoping for an option that would be a little more neighbor-friendly. There were no houses in the neighborhood where the fence does not connect the entire yard.

Mrs. Estes stated there are fences in the neighborhood that do not connect.

Mr. Broach stated the Estes did not create the issue. They were responding to the raising of the pool.

Mrs. Ackerman understood that they wanted a fence for privacy, but she did not understand how much privacy the fence would give them, because they are not allowed shadow-box fences in the neighborhood.

The Estes stated that it would be quieter and provide privacy. They would not be able to see the Ackerman's from their backyard or house.

Mr. Ackerman asked if the fence tops would be parallel.

Mr. Estes stated they would be parallel at the top and not sloping down to the back of the property.

Mr. Broach approved **Docket No. 06040018 V, Brookfield, Sec 2, lot 36 – Estes Property**, with the caveat that the Petitioners would make an attempt to soften or mitigate the effect of the fence after consulting with the neighbors and Glidden Fence Company.

**2-3d. TABLED: Townes at Weston Pointe-temporary sign**

~~The applicant seeks approval for the following development standards variances:~~

~~Docket No. 06010030 V ZO Chapter 25.01.01-04(L) off-premise sign~~

~~Docket No. 06010031 V ZO Chapter 25.07.03-01 illuminated temporary sign~~

~~The site is located at 11055 N Michigan Rd. and is zoned B-2/Business within the US  
421 Overlay. Filed by Emily James of Portrait Homes.~~

**E. Old Business**

There was no Old Business.

**F. New Business**

There was no New Business.

**G. Adjournment**

The meeting was adjourned at 6:00 PM.

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Kent Broach, Hearing Officer

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Connie Tingley, Secretary